

REMARKS

I. Introduction

Claims 1-24 are pending in the application. In the Office Action dated Sept. 10, 2007, the Examiner rejected claims 1-3, 5-14, 16, 17, and 19-24 under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 7,028,082 ("Rosenberg") and rejected claims 4, 15, and 18 under 35 U.S.C. § 103(a) as being unpatentable over Rosenberg in view of U.S. Pat. No. 6,643,621 ("Dodrill"). In this Amendment, claims 1, 4, 7-10, 13, 17, 18, 20, and 21 have been amended. Applicants respectfully request reconsideration and withdrawal of the rejections to the claims.

II. Rosenberg Fails to Anticipate Independent Claim1

Independent claim 1 has been amended to recite a list presenting unit operable to present a list of music data on a second client apparatus that are available to be transmitted to the second client apparatus based on data registered by the data registering unit. Independent claim 1 has also been amended to recite a server data transmitting/receiving unit operable to transmit desired music data of the list of music data to the second client apparatus in response to a selection at the second client apparatus of the desired music data of the list of music data available to be transmitted to the second client apparatus. Rosenberg fails to teach at least these elements.

Rosenberg is directed to a personalized audio system and method. Generally, Rosenberg teaches users creating a profile with information regarding music preferences. The music preferences may relate to a specific type of music, or specific songs. The profiles with music preferences are submitted to broadcasters that create playlists for audio channels based on the music preferences of users who listen to the audio channels. Users may then tune to these audio channels to receive broadcast songs or programs. The Rosenberg system additionally provides the ability for users to interact with the system to set one or more songs or programs that the user wishes to record. Based on the songs the user wishes to record, the Rosenberg system may scan future playlists for the audio channels so that when a specific song is broadcast on one of the audio channels in the future, the system may tune to the appropriate channel and record the program.

Rosenberg specifically states that a user has no direct control over which songs get played on an audio channel unless a user owns a copy of each sound recording in a playlist. (See Col. 8, lines 5-23). The portions of Rosenberg cited by the Examiner teach a user creating and editing a profile, which broadcasters use to create playlists. In the portions of Rosenberg cited by the Examiner, it is the broadcasters and not the user that determine the playlists. Accordingly, because it is the broadcaster and not the user that controls which song is played, Rosenberg as contemplated by the Examiner fails to teach a server transmitting desired music data of a list of music data to a client apparatus **in response to selection at the client apparatus of the desired music** as recited in independent claim 1.

Further, as explained in Applicants response dated Jun 15, 2007, Applicants maintain that Rosenberg teaches a system that may **receive and record** a broadcast song. Rosenberg fails to teach a system where content is **transmitted** to a user as recited in claim 1. Rosenberg teaches that a song is recorded when it is **broadcast**. The fact that a user sets a song as a song the user wishes to record does not cause the song to be transmitted to a client apparatus as recited in claim 1.

For at least this reason, Rosenberg necessarily does not anticipate independent claim 1, or any claim that depends on claim 1. Reconsideration is respectfully requested.

III. It is Improper to Combine Rosenberg and Dodrill

Applicants maintain that because combining Rosenberg and Dodrill as contemplated by the Examiner would alter the principle operation of Rosenberg, it is improper to combine Rosenberg and Dodrill.

Dodrill is directed to methods and apparatus for referencing and producing audio information. Generally, Dodrill teaches including an audio resource locator into webpage content so that when a user selects the audio resource locator, an audio file may be provided to the user in an appropriate audio format requested by the user.

As discussed above, Rosenberg teaches a system that **receives and records** a broadcast program or song. The program or song is recorded based on preferences set

by the user, playlists for specific audio channels, and start and stop times for a specific song or program found in the playlists. If Rosenberg were combined with Dodrill to provide a system that transmitted audio files (content), Rosenberg would operate in a fundamentally different manner. Rosenberg would no longer receive and record a broadcast program, but would instead receive transmitted audio files. Rosenberg would no longer use audio channels, or have a use for playlists in determining when to record a specific audio channel.

Because the proposed combination of Rosenberg and Dodrill would alter a principle operation of Rosenberg, it is improper to combine Rosenberg and Dodrill. Accordingly, the proposed combination necessarily does not render independent claim 1, or any claim that depends on claim 1, unpatentable.

IV. Rosenberg and Dodrill Do Not Render Independent Claim 13 Unpatentable

Amended independent claim 13 recites a selecting unit operable for a user to select music data from a list of music data presented by a server apparatus based on data from different types of media uploaded in advance onto the server apparatus. Amended independent claim 13 additionally recites a reproducing unit operable to receive data corresponding to the music data selected by the user at the selecting unit that has been transmitted from the server apparatus in response to selection of the music data by the user, and apply decoding corresponding to a medium.

As discussed above, Rosenberg fails to teach transmitting content, and fails to teach transmitting content in response to selection of the content by the user. For at least these reasons, Rosenberg necessarily does not anticipate independent claim 13, or any claim that depends on claim 13.

Further, because the proposed combination of Rosenberg and Dodrill would alter the principle operation of Rosenberg, it is improper to combine Rosenberg and Dodrill. Accordingly, the proposed combination necessarily does not render independent claim 13, or any claim that depends on claim 13, unpatentable.

V. Rosenberg and Dodrill Do Not Render Independent Claim 17 Unpatentable

Amended independent claim 17 recites a list presenting unit operable to present a list of music data to a client apparatus that is available for transmission to the client apparatus based on the data registered by a data registering unit. Amendment independent claim 17 further recites a server data transmitting/receiving unit operable to transmit music data selected at the client apparatus to the client apparatus in response to selection of the music data at the client apparatus. As discussed above, Rosenberg fails to teach these elements. For at least this reason, Rosenberg necessarily does not render independent claim 17, or any claim that depends on claim 17.

Further, because the proposed combination of Rosenberg and Dodrill would alter the principle operation of Rosenberg, it is improper to combine Rosenberg and Dodrill. Accordingly, the proposed combination necessarily does not render independent claim 17, or any claim that depends on claim 17, unpatentable.

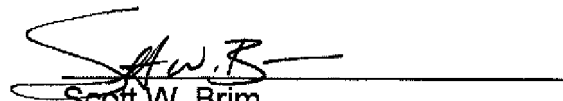
VI. Rosenberg Does Not Anticipate Independent Claim 22

Independent claim 22 recites selecting a decoder used to reproduce content on a client apparatus based on a desired medium. While Rosenberg may state that the Rosenberg system may include a decoder, Rosenberg fails to make any mention of selecting a decoder, or selecting a decoder based on a medium as recited in claim 22. For at least this reason, Rosenberg necessarily does not anticipate independent claim 22, or any claim that depends on claim 22.

VII. Conclusion

In view of the foregoing remarks and amendments, Applicants submits that the pending claims are in condition for allowance. If there are any questions concerning this Response, the Examiner is asked to phone the undersigned attorney at (312) 321-4200.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S.W. Brim", is written over a horizontal line.

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